

REMARKS

Claim Status

Claims 3-9 and 12-19 are pending in the present application. This paper amends claims 3, 4, 8, 12-15, 17, and 18; cancels claims 1, 2, 10, and 11 without prejudice or disclaimer; and adds new claim 19. Claims 3, 4, 12, 13, and 19 are the independent claims of the present application.

Allowable Subject Matter

The Applicant gratefully acknowledges the notification of allowable subject matter in claims 4 and 13.

Claims 4 and 13 have been rewritten in independent form, including all of the limitations in their respective base and intervening claims. These claims should therefore be allowable.

Art Rejections

Claims 3 and 12

The Office Action rejected claims 1-3, 5-7, 10-12, 14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over O'Brien, U.S. Patent Number 6,601,031 ("O'Brien" hereinafter) in view of Krack, U.S. Patent Application Publication Number 2003/0021394 ("Krack" hereinafter). Claims 3

and 12 have been re-written in independent form, including all of the limitations of their respective base and intervening claims. Therefore, the scope of this claims remains unchanged.

With respect to claim 3, the Office Action asserted that, in O'Brien, "the speech recognition selectively couples and decouples the speech path of the telephone user (2) from the voice mail system (5), as shown in step 11 of figure 6, when the user wishes to directly communicate with the voice mail system, i.e. the speech recognition serves as a *port patch for connecting the first port directly to the second port in a second mode.*" Note, however, that in claim 3, "directly" refers to connecting audio from the first port to the second port, rather than to connecting the caller/user to the DTMF-driven system. O'Brien apparently does not teach such direct connection between the two ports. In Figure 3 of O'Brien, for example, the path between two ports of the speech recognition system 40 passes through the ASR/DTMF detector, Application Control module, and DTMF Out module. The path between the two ports shown in Figure 3 is therefore indirect. In step 11 of Figure 6, O'Brien states, *inter alia*, that "THE SRS ALSO SETS UP THE VOICE PATH FROM THE SUBSCRIBER TO THE VMS." O'Brien does not disclose that the voice path goes directly between the two ports of the SRS. Applicant respectfully submits that claim 3 is patentable over O'Brien and Krack at least for this reason.

Claim 12 was apparently rejected under the same rationale as claim 3. Claim 12 also recites "a port patch for connecting audio from the first port directly to the second port." Therefore, claim 12 should be patentable over O'Brien and Krack for the same reason as claim 3.

Claims 8, 9, 17, and 18

Claims 8, 9, 17, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Brien in view of Krack and further in view of Kelly, U.S. Patent Application Publication Number 2004/0218737 ("Kelly" hereinafter). Applicant respectfully traverses these rejections because it appears that Kelly is not prior art. Kelly was filed in the United States on February 5, 2004, which date is later than the filing date of the present application. Although Kelly claims priority to an application filed in Ireland, Kelly does not claim priority to an "International Application" filed under the Patent Cooperation Treaty. Note the definition of "International Application" in the Manual of Patent Examining Procedure: "International application (IA) = an application filed under the Patent Cooperation Treaty (PCT)." MPEP § 706.02(f)(1), Glossary of Terms following FLOWCHARTS FOR 35 U.S.C. § 102(e) DATES, Chart II, page 700-39.

"Foreign applications' filing dates that are claimed (via 35 U.S.C. 119(a)-(d), (f), or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may **not** be used as 35 U.S.C. 102(e) dates for prior art purposes. This includes international filing dates claimed as foreign priority dates under 35 U.S.C. 365(a)." MPEP § 706.02(f)(1)(I)(D). Therefore, Kelly's 102(e) date as prior art is its earliest U.S. filing date, which is later than the filing date of the present application.

Applicant respectfully submits that claims 8, 9, 17, and 18 are separately patentable over the references at least for this reason.

New Claim 19

Applicant believes that new claim 19 is patentable because the references do not disclose or suggest a combination of steps as recited in this claim. In particular, claim 19 recites steps of

detecting a tone from the DTMF driven system, the tone signaling the user to record a message, and, in response to detection of the tone, enabling a port patch for connecting audio input of the user from the first port directly to the second port. In contrast, the Examiner has determined that “[t]he system of O’Brien, as seen in figures 6 and 7, is responsive only to user input, such that there can be no *tone detector for detecting a tone . . . from the DTMF-driven system.*” Office Action, at page 8.

Claims Not Specifically Addressed

The above discussion addresses patentability of all pending independent claims. As regards dependent claims not specifically discussed, these claims should be patentable together with their base claims and intervening claims, if any.

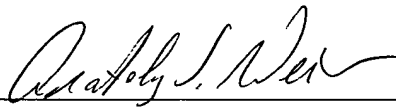
CONCLUSION

For the foregoing reasons, Applicant respectfully submits that all pending claims are patentable over the references of record. To discuss any matter pertaining to the present application, the Examiner is invited and requested to call the undersigned attorney at (858) 720-9431.

Having made an effort to bring the application in condition for allowance, a notice to this effect is earnestly solicited.

Respectfully submitted,

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